



August 12, 1999

Ms. Susanna Holt
Assistant Attorney General
Executive Administration
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR99-2310

Dear Ms. Holt:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126388.

The Office of the Attorney General (the "OAG") received a request for specific documents relating to the tobacco litigation. You claim that the requested documents are excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted documents.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

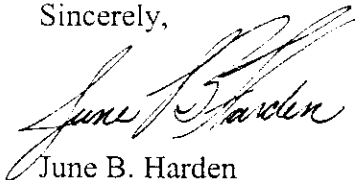
(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the requested documents relate to an ongoing federal investigation into the hiring of outside counsel by the Morales Administration. You state that the OAG has forwarded the requested information to the Federal Bureau of Investigation

and the U. S. Attorney's Office. You also state that those entities have asked that this information be withheld because release at this time would interfere with the prosecution of their case. Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). We find that you have shown the applicability of section 552.108 to the requested information. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978); see also Open Records Decision No. 586 (1991) (need of another governmental body to withhold information may provide compelling reason for nondisclosure). Thus, the information may be withheld under section 552.108.

Because we are able to make a determination under section 552.108, we need not address your additional arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 126388

Encl. Submitted documents

cc: Mr. Laylan Copelin
Austin American-Statesman
P.O. Box 670
Austin, Texas 78767
(w/o enclosures)